

A World-Class Confidential Information and Intellectual Property Protection Strategy

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The Changing Business Environment

The standards for world-class information protection are evolving to meet the challenges presented by our constantly changing business environment. Information protection practices today must be tailored to address the risks associated with a global marketplace, rapid advancements in technology and telecommunications, and business relationships, including extensive outsourcing, which result in virtual organizations. The standards considered reasonable yesterday are inadequate today.

While the practical application of information protection is dynamic in a dynamic business environment, one constant of world-class information protection is corporate culture. A company culture imbued with information protection values is positioned to meet the tests of new business opportunities, which often create new threats and vulnerabilities to an organization's information.

A World-Class Information Protection Culture

An organization with world-class information protection has a corporate culture that integrates confidential information and intellectual property protection into the core of business operations. This is achieved by empowering employees, incorporating protection procedures into business processes, and reinforcing the obligations of non-employees who have access to the organization's confidential information.

1. **Employees.** Employees who work in a world-class information protection environment know how to identify information that should be considered confidential and have a clear understanding of their responsibilities to protect it. They understand that while corporate policies apply, there is no set of rules that can describe all the steps one should take to protect information. Rather, employees have the tools and feel empowered to exercise informed good judgment. They view information protection as an ongoing process that is integral to their work. They understand the risks and know that they must maintain a heightened awareness of vulnerabilities. They are held accountable for their responsibilities.

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2. Non-employees. An organization with world-class information protection recognizes the additional risks to information inherent in working with non-employees, such as contractors, consultants, joint venture partners and suppliers. While contracts are in place to require confidentiality and other intellectual property protections, they are not relied on exclusively. A world-class information protection strategy also obligates non-employees to comply with specific rules and requirements related to the protection of the contracting company's information. Companies that provide products and services, or do independent development work for the organization from their own facilities, are required to impart these rules and requirements to any employee who works with the contracting company's confidential information. Non-employees who work on-site have restricted access to confidential areas and materials based on their need to know. Information is disclosed to them, and access is permitted, only if the non-employee needs the information in order to perform his or her work for the company. Consistent reminders reinforce the recipient's obligation to protect the information during, and after, their work with the contracting company.
3. Integrating Information Protection into Business Processes. World-class information protection is not a separate, or stand alone, organizational function. It is seamlessly integrated into existing operations. Business processes, from product development to marketing and sales, employee hiring, and termination procedures, are evaluated for vulnerabilities and strategically reengineered to incorporate the appropriate information and intellectual property protection. As new projects, products and processes are conceptualized and developed, specific information protection procedures are incorporated into them.

Changing a Culture to Achieve World-Class Status

Changing a culture to achieve world-class status requires, first and foremost, commitment and leadership from senior management. The influence of senior management can cascade information protection values throughout an organization.

A world-class information protection strategy relies also on policies, reference materials, tools, and a physical, computer, and network security infrastructure. For large, decentralized organizations, world-class information protection is based on establishing standards, templates and other resources that can be tailored to the specific needs of each business in the enterprise. Teamwork is paramount to coordinating a comprehensive, enterprise-wide strategy.

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Most companies that have achieved world-class information protection status use education and ongoing communication as the primary vehicles to drive the requisite culture. Typically, all employees are educated and trained on the practical aspects of information protection. They are provided with clear, consistent definitions of confidential information and specific examples from their own work environment. Through real life examples, scenarios and role plays, employees obtain hands-on experience and discover the importance of information protection and how it can be incorporated into their everyday operations. Employees are provided with reference materials and tools that reinforce their responsibilities long after their formal training is complete. Ongoing communications remind employees of vulnerabilities and threats to information, and practical ways to reduce the risks of losing or compromising confidentiality and intellectual property.

To ensure the effectiveness of information and intellectual property protection, a world-class strategy includes a process for evaluation and continuous improvement.

Benefits of a World-Class Strategy

An organization that establishes and maintains world-class information and intellectual property protection is positioned to reap all the benefits of their valuable, intangible assets.

1. Competitive Value. Information and intellectual property provide the basis for market differentiation. A company that protects its information and intellectual property protects its ability to distinguish itself in the marketplace with unique proprietary information, knowledge and know-how.
2. Rights to Trade Secrets and other forms of Intellectual Property. By protecting information, the organization establishes proprietary rights to trade secrets and preserves its ability to seek legal recourse in the event information is stolen or compromised. By preserving the confidentiality of information related to new products and processes, the organization also maintains its option to pursue and enforce patent rights.
3. Market Advantage. World-class information protection can be used proactively to provide added value to customers and business partners. If a company is the recipient and custodian of confidential information from other companies, customers, or patients, world-class information protection provides the ability to establish and maintain the trust which is crucial to these relationships.
4. Currency of Exchange. Protected information can be used to bargain for valuable information from other companies. Since world-class information protection is based on a recognition of the value of information, each employee can ensure that the information (s)he receives in a business discussion with an outsider is always worth

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at least as much as the information (s)he discloses. An organization can thereby maintain a positive balance on the exchange of its information.

5. **Loss Reduction.** World-class information protection results in less vulnerability, liability, loss and related costs. Employees who are able to apply informed good judgement are less likely to give away valuable information inadvertently. Competitive intelligence professionals may be less likely to target a company known to have world-class information protection in place. With fewer incidents of information loss, theft and compromise, the organization also reduces costs associated with investigations, negotiations and litigation.
6. **Indirect Benefits.** In addition to its direct impact, world-class information protection delivers many indirect benefits. The organization's reputation, credibility, sales, market position, and profits are all indirectly and positively affected by solid proprietary rights to information and other forms of intellectual property.

Conclusion

The mechanics of information protection must evolve to adapt to the constantly changing business environment. Therefore, a company can achieve world-class information protection status only by creating a corporate culture that reinforces personal responsibility for protecting information and intellectual property.

Executive level commitment and support are key to establishing a corporate culture attuned to the practicalities of information protection. Education and ongoing communications empower employees to exercise informed good judgment. Rules and requirements provide specific information protection instructions to contractors, consultants, vendors, customers, prospects, and temporaries.

The benefits of world-class information protection include establishing and maintaining competitive advantage and proprietary rights to intellectual property. As we look to the future, these benefits may be a prerequisite to corporate survival.

About the Author

Naomi Fine, Esq. is a nationally recognized authority in information and intellectual property protection and intellectual asset management. Her depth of knowledge comes from working with hundreds of world-class companies to assess needs, develop tailored strategies, identify sensitive information, establish policies and procedures, and provide training and tools that secure competitive advantage. Ms. Fine has been cited by Fortune, Business Week, Time Magazine, USA Today, The New York Times Cybertimes the LA Times and the Industry Standard as a leading expert in her field. Ms. Fine's work for MCI, Apple Computer and Tandem Computers has been described as exemplary in industry trade journals, including The Personnel Journal, The Sales & Marketing Management Magazine, and Security Management Magazine. Ms. Fine is an authoritative and enthusiastic speaker for many industry associations, as well as being a published author of numerous articles related to information and intellectual property protection. Prior to founding Pro-Tec Data, Ms. Fine was a business attorney counseling high technology companies on protection, licensing and other transactions related to intellectual property. For more information about Ms. Fine and her work, see www.pro-tecdata.com